

REPORT

OF THE COMMITTEE OF THE

SENATE OF PENNSYLVANIA,

ON THE MEMORIAL OF THE

***BANKS OF PHILADELPHIA, &C.***

PRAYING FOR LEGISLATIVE INTERFERENCE IN FAVOR OF THE

RESTORATION OF THE PUBLIC DEPOSITS

TO THE

**UNITED STATES BANK.**

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MR. PETRIKIN, CHAIRMAN.

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READ IN THE SENATE, FEBRUARY 4, 1834.

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1834.

REPORT

OF THE

COMMISSIONERS OF THE

LAND OFFICE

IN RESPONSE TO A RESOLUTION

PASSED BY THE HOUSE OF REPRESENTATIVES

ON FEBRUARY 2, 1866

TO THE

UNITED STATES SENATE

BY

JOHN W. WARD, SECRETARY

1866



## REPORT.

The committee to which was referred the memorial of the presidents of certain banks in the city and county of Philadelphia "acting under the authority of their respective boards of directors," and also sundry other memorials of a similar purport, requesting that the Legislature of this State would use their efforts and their influence with Congress, to obtain a "restoration of the Government deposits to the Bank of the United States," REPORT:

That for themselves, they should have been content to leave this question to the Government of the United States, to which it more appropriately belongs; but this has been rendered impossible by the memorials which have been referred to your committee. They are now left without an alternative, and will, therefore, in obedience to the will of the Senate, proceed to present their views upon this important subject

It can scarcely be seriously contended, that the Government deposits ought to be restored to the Bank of the United States, if this bank is destined to expire so soon as the 3d of March, 1836. In that event, should they be now restored, the pressure in the money market would be repeated within a short period, and the community would again suffer the same evils. Besides, if the consequences, so strikingly portrayed by the memorialists, be fairly attributable to the mere transfer of the public deposits from the Bank of the United States to the State Banks, the same *cause* must produce the same *effect*, and their re-transfer, from the State Banks to the Bank of the United States, would occasion a repletion of the same distress. The necessity which, it is alleged, compelled the latter bank to curtail its accommodations to the public, would operate with at least equal force upon the State Banks, when placed in a similar situation. If, therefore, the charter of the bank is not to be renewed, it seems clear to your committee, that it is better to endure the present pressure, which must now be nearly at an end, than to have the same repeated by a re-transfer of the deposits, and again, *for the third time*, when the charter shall expire.

Both the constitutionality and expediency of re-chartering the Bank of the United States, are, therefore, questions directly involved in the present inquiry. Do Congress possess the power of creating a bank? This question has divided the people of the United States, almost ever since the adoption of the Federal Constitution. Those who have been friendly to a strict construction of that instrument, and have opposed the exercise of any powers by the Government of the United States, except such as have been clearly granted, have ever denied to Congress the power of creating a bank. At the head of this class stood Thomas Jefferson, the great champion of the re-



served rights of the States; and the Legislature of Pennsylvania, in the year 1811, by a large majority in both branches, held the same doctrine, on a question involving the propriety of re-charting the old Bank of the United States. From the preamble to the resolutions offered and adopted at that time, your committee, (to show that declarations by the friends of the bank, of ruinous consequences, &c. if the charter should not be renewed, were as loud and strong *then*, as they are *now*, under precisely similar circumstances,) extract the following:

“Our ears, and those of the people of the Union, are deafened with the clamor which is raised, as to the *awful consequences* which it is said must result, if the charter of the Bank of the United States is not renewed. The bank has surely no claim upon the Government. If the *constitution had not been violated*, these ceaseless predictions of ruin would not now be heard. Do the FRIENDS OF THE BANK EXPECT, BY THEIR NOISY DECLAMATION, TO OVERAWE THE GOVERNMENT? Shall the claims of justice be barred by the strong hand of a monied aristocracy, and the constitution of our country be offered up on the same unhallowed altar? It is mortifying and deplorable to hear it proclaimed to the world, that even in the early days of a representative democratic government, it is at the FEET OF A CORPORATION, PRAYING THEM TO AVERT GENERAL BANKRUPTCY AND UNIVERSAL CALAMITY FROM OVERSPREADING THE NATION.”

In the opinion of your committee, it would be difficult to resist the force of the arguments which might be urged against the existence of the power of Congress to create a bank. It is not to be found in the enumeration of the powers granted to Congress; and it is a well known historical fact, that the convention which framed the present constitution, expressly refused to confer upon that body the authority to grant charters of incorporation.

Without going into an argument upon this branch of the subject, it may be affirmed, that almost every struggle which has threatened to convulse the people of this country, and to endanger the existence of the Union, has arisen from the exercise of *doubtful* and *implied powers* by Congress.—Sufficient have been clearly granted, to accomplish all the great purposes for which the Federal Government was called into existence; therefore, there is no necessity for treading upon doubtful ground. Whenever Congress touch or pass the boundary of the powers “reserved to the States respectively, or to the people,” contention and opposition ever have been, and ever will be, the inevitable consequences. Should it be deemed expedient, at any future time, to charter another Bank of the United States, with a limited capital and under proper restrictions, it would be advisable that the constitution should be first so amended as expressly to confer this power. Thus many of the difficulties would be removed, which have always attended the agitation of this question, and a precedent for a loose construction of the constitution would be blotted out, under the authority of which, almost any and every power might be exerted. We should dread *consolidation* as much as *disunion*.



We now proceed to make some remarks in regard to the expediency of rechartering the present bank :

The capital of this bank consists of thirty-five millions of dollars. It possesses the privilege of shooting out its branches every where, throughout the Union, without any control, except its own discretion. In May, 1832, its loans to individuals exceeded the enormous sum of seventy millions of dollars, or more than double its capital, and are now, it is believed, sixty millions. The tremendous power of this vast machine may be imagined, by contemplating, for a moment, the number, wealth and character of its stockholders ; the immense sums due from its debtors, in all portions of the Union ; the commanding influence it exerts over the *state banks*, and *through them, over their stockholders and debtors*; and the facility with which it can make money plenty, or money scarce, according to its own will and pleasure. A bank of this magnitude is the more to be dreaded, as it addresses itself immediately to the interests of men, and enlists, as auxiliaries in its cause, both the *hope* of GAIN, and the *fear* of RUIN!! Were any proof wanting of its great influence over the state banks, it might be found in the fact, that your committee are now occupied in reporting upon a memorial from those of the city and county of Philadelphia, acting in their corporate character, in favour of the restoration of the deposits. Its immense capital enables it to control, and, by the admission of its president, would enable it to *crush* almost any one of the state institutions, whenever it might deem proper.

The experience of the world has shewn, that the only condition upon which mankind can enjoy liberty, is the most watchful jealousy.—Ought then a free people ever to call into existence a monied institution sufficiently powerful to influence or to control the Government of the country ? It is the nature of man to grasp at power when within his reach ; and all history has established, that whenever corporate bodies have acquired political power, it has been abused. From numerous examples, it is only necessary to quote that of the British East India company. To use the language of Mr. Clay, in his speech in the Congress of the United States, some years since, against incorporating the old, bank:—"a company which has carried dismay, desolation and death, throughout one of the largest portions of the inhabitable world. A company which is, in itself, a sovereignty—which has subverted empires, and set up new dynasties—and has not only made war, but war against its legitimate sovereign. \* \* \* \* A South Sea company, and a Mississippi company that distracted and convulsed all Europe, and menaced a total overthrow of all credit and confidence, and universal bankruptcy." The truth is, that when men become members of a corporation, they often sanction proceedings, either by their votes or their silence, to which as individuals they would never consent. Whether this arises from a feeling that the responsibility is divided among many, or from any other cause, the fact is undoubted. It is mainly for this reason, that of all the governments on earth, an ARISTOCRACY *is the worst* ; and should a MONIED ARISTOCRACY ever succeed in influencing or con-



trolling the conduct of our Government, FROM THAT DAY, *our liberty will be but an empty name!*

In a crisis like the present, it is wise to refer to the opinions of the sages who have gone before us. What says the immortal author of the Declaration of Independence, upon the subject of a National Bank? Speaking of the old bank, whose power and whose influence never bore any comparison with those of the bank now in existence, he writes thus to Mr. Gallatin, under date of 13th December, 1803:

“This institution is one of the most deadly hostility existing, against the principles and form of our *Constitution*. The nation is, at this time, so strong and united in its sentiments, that it cannot be shaken at this moment. But suppose a series of untoward events should occur, sufficient to bring into doubt the competency of a republican government to meet a crisis of great danger, *or to unhinge the confidence of the people in the public functionaries*; an institution like this, *penetrating* by its *branches* every part of the Union, acting by *command* and in *phalanx*, may in a critical moment *upset the Government*. I deem no government safe which is under the vassalage of any self-constituted authorities, or any other authority than that of the nation, or its regular functionaries. What an obstruction could not this bank of the United States, with all its branch banks, be in time of war? It might dictate to us the peace we should accept, or withdraw its aid. *Ought we then to give growth to an institution so powerful, so hostile?* That it is so hostile we know, 1st, From a knowledge of the *principles* of the *persons* composing the body of *directors* in every bank, principal or branch; and those of most of the *stockholders*: 2d, From their opposition to the *measures* and *principles* of the Government, and to the election of those friendly to them: and, 3d, From the sentiments of the *newspapers* they support. Now while we are strong, it is the greatest duty we owe to the safety of our Constitution, to bring this powerful enemy to a perfect subordination under its authorities. The first measure would be to *reduce* them to an equal footing with other banks, as to the favors of the Government.” (*That is, as to the public deposits.*)

The present bank, warned by the fate of its predecessor, ought to have been prudent and circumspect in its conduct. It ought to have confined itself to its money operations, and carefully abstained from all attempts to exercise any influence over the politics of the country. But its course has been far different. What was the moment it selected to make application for a re-charter? Although the existing charter had then almost five years to run, it chose the session of 1831—32 for this purpose; the period when the political storm which preceded the last presidential election was at the highest. Can any one doubt but that the object was, to compel the President from a dread of the influence the bank might exert against his re-election, to approve the bill which they felt confident Congress would pass? or if he should continue steady to his avowed purpose, to use that powerful influence in electing a successor more pliant and accommodating? Those who observed the passing events of that day, with an



impartial eye, cannot fail to have arrived at this conclusion. But the President was not to be intimidated. He possessed the moral courage to meet the emergency. He vetoed the bill re-chartering the bank, and placed himself before the people of his country upon this very question. If Congress were now to re-charter this institution, they would act in direct violation of the clearly expressed will of their constituents.

Every one who bore a part in Presidential election of 1832, must know that the bank entered the lists, and used all its influence against General Jackson. It exerted all its energies to elevate to the first office of the country its own political friend and favorite. Its efforts were open and undisguised. It circulated political tracts and pamphlets, for this purpose, all over the country. This is not denied. It cannot be denied.

At the time, however, no one suspected that these documents were purchased and circulated at the expense of the bank, in its corporate character; or that the board of directors in their official capacity, had authorized such conduct. Thanks to the vigilance of the government directors, although this fact was for a long time carefully concealed from them, it has been at last brought to light, and is now openly avowed by the other directors, in their famous report. They admit that nearly sixty thousand dollars, the one-fifth of which belonged to the people of the United States, who hold that portion in the stock of the bank, was appropriated by the board for these purposes. This is not all. The power still exists in the president, under a resolution of the board, to spend as much of the corporate funds for similar purposes, as he may think proper.

The bank attempts to justify this conduct, by claiming a right to defend itself, and to communicate to the people information in regard to its operations. But when we examine the documents which it caused to be published and circulated, we find that, instead of self-defence, they contain violent attacks upon the President, in the rudest language. Their object was to degrade and vilify him before the American people, and to convince them that he was unworthy of their suffrages. Your committee will not swell this report by introducing quotations from their publications.

It is unnecessary to consider whether any and every bank in the country, have a right to appear before the public in their corporate capacity, and use the funds of the stockholders in defending themselves against arguments intended to prove either that their existence is dangerous to public liberty, or that they have mismanaged the concerns of their institutions. If it were, it would be easy to prove, that under the sanction of such a principle, these corporations, possessing no political rights under their charters, might take an active and commanding part in nearly all the political concerns of the country. Every candidate for office might be called upon to declare whether he was for them or against them. A new and most dangerous power would thus be introduced into the State.



It is enough that all persons interested in the *Bank of the United States*, as well as all those connected with the *government* of the country, enjoy, as individuals, the *constitutional right of defending the one and the other*, and of attacking their adversaries, without permitting the *corporation* or the *government* to use the funds of the stockholders, or the people for this purpose. What a clamor would have been excited, and justly excited, throughout the land, had the government used the money of the people entrusted to their care, even in self defence, against the charges of the bank!

It is not the purpose of your committee to enumerate all the particular acts of misconduct which have been charged, and, in their opinion, proved against this institution. They will merely refer to the facts so ably and clearly set forth by the government directors, in their memorial to Congress:—a document which does the authors great credit, and the more so, as its manner is in direct opposition to the contumelious and overbearing spirits which pervades the report of the other directors.

The danger of such an institution may be readily conceived, if we imagine for a moment, what would be our situation at the present crisis, should the country be compelled to undertake a war for the vindication of our rights. What might then be the consequences? The bank has now the control of the monied operations of the whole country. They could exercise vast power in thwarting the views of the Government. And can any one doubt, from their past conduct that they would pursue any and every course calculated to advance their own interests, and obtain a re-charter? Could they not compel the Government to do their bidding, and obey their mandate? Is it not infinitely better that the wealth of the country should be scattered among the people, and the State banks, even at the expense of some inconvenience to the public, than that it should be subject to the control of a mammoth institution, which in the language of Mr. Jefferson, “may in a critical moment upset the Government?”

Your committee are solemnly impressed with the conviction, that, should the bank succeed in obtaining a renewal of their charter *their existence will then be perpetual*. If they have already been able to make such formidable efforts to defeat the re-election of the present Chief Magistrate,—a man endeared to the people by so many distinguished services; what President hereafter will venture to resist their power, when it shall have been confirmed and extended by many years more of successful operation? “If these things be done in the green tree, what will be done in the dry?” Indeed, it may be doubted, whether even now any other man in the Union, except the present President could have successfully resisted their power. But their fate is sealed; public opinion has doomed them to destruction. The present Bank of the United States never can, never will be re-chartered.

Your committee is thus brought again to the question, *whether the deposits ought to be restored?* On this question they would not deem it necessary to add any remarks to those they have already submitted, if it were not, that the power of the Secretary of the Treasury to re-



move the deposits from the Bank of the United States, has been denied by its advocates. They have contended that no matter what may have been the misconduct of the bank, as long as the deposits were safe in its custody, they could not be removed.

If Congress had limited the power of the Government in this manner, it evinces a want of political sagacity almost without a parallel. Must the deposits remain in the bank, even if it should exert itself for the purpose of promoting the schemes of the secret or open enemies of our republican institutions? Must they remain there, if they should be used for the express purpose of "crushing the State Banks," and thus producing general distress among the people? Many other cases might be stated, in which it would be clear, the government ought to possess a control over the deposits. Is it a sufficient answer to any charge of misconduct for the bank to say, "the deposits are safe in our custody, and therefore you have no business to enquire further?"

When we come to examine the charter of the bank, we find there is no foundation, either in its letter or its spirit, for such an extravagant pretension. The sixteenth section of the law, upon which the present question turns, is in the following words:

"And be it further enacted, that the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, *unless the Secretary of the Treasury shall at any time otherwise order and direct*; in which case, the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction."

Language cannot be more general or comprehensive than that conferring the power on the Secretary over the deposits. His authority is not limited by any words whatever. There is nothing which restrains him acting except in the single case when he believes the public money to be in danger. In forming his opinion upon this question, he must consult the *public good*; and not merely the *safety of the public money*. Why should he be called on to render his reasons to Congress, if it had been predetermined, that the only reason he could render would be that the deposits were in danger? Congress conferred upon him this power in general terms, because it was impossible they could foresee all the causes which might make the withdrawal of the deposits proper and necessary. They gave him, therefore, a general discretion; and in order to guard against its abuse, they *reserved to themselves the power of judging of the validity of his reasons*. Upon these principles, both Mr. Crawford and Mr. Ingham proceeded whilst they were at the head of the Treasury, and it would be difficult to conceive how they could have adopted any other. The present Secretary has construed his own powers in the same manner: and in the opinion of your committee, the reasons which he has laid before Congress for removing the deposits from the bank of the United States, are entirely satisfactory.



But again, it has been boldly asserted, that the President has been guilty of a dangerous usurpation, because he dismissed a former secretary of the treasury, for refusing to remove the deposits. But how loud would the friends of the bank have been in their commendations, had the case been reversed, and had the President deprived that secretary of his office to prevent him from changing the public depository? A rule, if it be a good one, will work both ways. The truth is that it would be a solecism in our system, if any of the subordinate executive officers were independent of the control of the President. To him the Constitution looks for the faithful execution of the laws, and he is responsible to the people for the performance of this duty. But with what justice could he be held responsible, if his own subordinates had the power of thwarting and defeating his will, whenever they thought proper? To prevent a consequence so disastrous he, and *he alone*, under the Constitution possesses the power of appointing them, with the advice and consent of the Senate, and their removal is under his own absolute control. The position contended for would render the secretary of the treasury, whenever any duty is imposed upon him by an act of Congress, entirely independent of the President, both in construing and executing the law. The most talented and statesman-like speech which has been delivered in Congress, by any member in opposition to the administration, during the debate on the removal of the deposits, completely puts down this dangerous heresy.

Your committee will, in conclusion, refer to another part of the subject. *What is the cause of the present pressure in our commercial cities?* Can it be possible that it proceeds solely from the withdrawal of a certain sum of money from one bank, *whilst the very same sum is deposited in other banks?* In such a case would not the diminished power of the bank which had lost the deposits, be counterbalanced by the increased power to accommodate the public gained by the banks to which they were transferred? It is true that the change in business, which such a change of deposits would naturally create, might be a source of some temporary embarrassment. This, from the nature of the case, must be slight in its nature, as well as short in its duration. Your committee are, therefore, forced to the conclusion that by far the greater portion of the pressure in the money market, which is now felt in our mercantile cities, is occasioned by an unnecessary curtailment of the accommodations granted by the Bank of the United States. *Their object is palpable. It is to compel a re-charter and a restoration of the Government deposits.*

When it was their policy to render themselves popular throughout the country, and thus acquire an influence in Congress, within the short space of sixteen months, between the 30th December, 1830, and the first of May, 1832, they extended their accommodations more than twenty-eight millions of dollars:—a sum equal to four-fifths of their whole capital. At that time the firmness and integrity of the President alone prevented them from obtaining a re-charter. That which they could not accomplish by money and influence, they appear now resolved to extort from the distress of the people. They are filling



the land with dismay. They now address the passion of *fear*. They have curtailed their discounts far beyond what their situation or their safety required. Thus they have created a considerable pressure in the cities, and a still greater panic both there and throughout the country. They hope through the public sufferings to obtain from Congress both a re-charter and the Government deposits. This is a vain hope.

The pressure, your committee believe, will cease soon after the question shall be finally decided in Congress: because it will then be the interest of the bank, not unnecessarily to curtail its accommodations. But should we be mistaken in this conjecture, and should the bank determine to use the immense power which has been conferred upon it by Congress, for the purpose of spreading calamity and distress throughout the land, they will find that the *heroic patience under suffering*, which characterized our fathers, still animates their children. **NO PRICE IS TOO GREAT TO BE PAID FOR LIBERTY.** *We will be willing cheerfully to endure a transient evil, for the sake of averting perpetual oppression.* We shall bear any pecuniary distress which the bank can now inflict to preserve our republican institutions free from corruption, and prevent ourselves and our children, in time to come, from being subject to the influence and dominion of a monied aristocracy.

Your committee therefore report the following resolutions:

1. Resolved, That the present Bank of the United States ought not to be re-chartered by Congress.
2. Resolved, That the government deposits which have been withdrawn from the bank of the United States, ought not to be restored.



